

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DARRYL E. DUNST

[DA 7547]

v.

COMMONWEALTH OF PENNSYLVANIA,
et al.

CIVIL ACTION

No. 04-4422

ORDER

AND NOW, this 10th day of August, 2005, upon careful and independent consideration of the petition for Writ of *Habeas Corpus*, and after review of the Report and Recommendation of United States Magistrate Judge Linda K. Caracappa, IT IS ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED.¹
2. The petition for Writ of *Habeas Corpus* is DISMISSED.
3. There is no probable cause to issue a certificate of appealability.
4. The Clerk of Court shall mark this case closed for statistical purposes.

Pollak, J.

¹The court notes, however, that in the first full paragraph on page 4 of the R & R, Magistrate Judge Caracappa quotes from 28 U.S.C. § 2244(d)(2), but inadvertently cites to 28 U.S.C. § 2254(d)(2). The correct cite should be to 28 U.S.C. § 2244(d)(2).